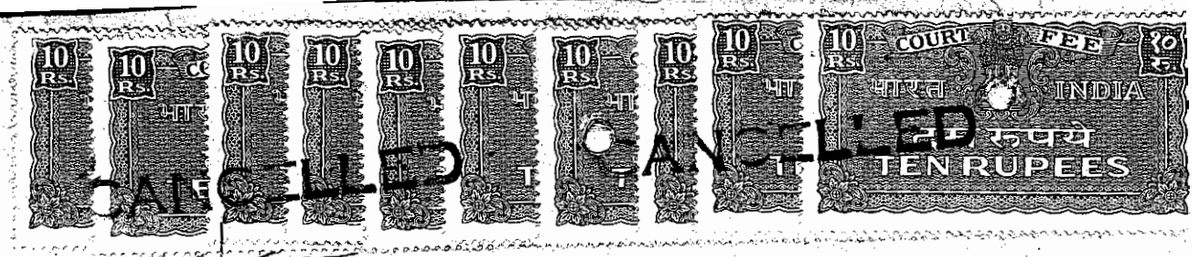

3

IN THE HIGH COURT OF JUDICATURE AT JABALPUR (M.P)

WRIT PETITION NO. 1858 OF 1998

BETWEEN

Peeli Bai, Widow of Loknath Gond,
Residence of Village Chhanatuda, Tehsil
Sarangarh, District Raigarh (M.P)

PETITIONER

AND

1. Jayaram, S/o Padamlal Agariya,
2. Bodhram, S/o Padamlal Agariya,
3. Krishna Chand, S/o Neelambar Agariya

Residence of above 1 to 3 at Village
Chhanatuda, Tehsil Sarangarh, District
Raigarh (M.P)

4. State of M.P. through Secretary revenue department Vallabh Bhawan Bhopal
5. Commissioner Bilaspur Division Bilaspur M.P.

RESPONDENTS

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..W.P.No.1858/98 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	10-11-2005	

Shri Awadh Tripathi with Shri Sunil Sahu, counsel for the petitioner.

Shri V.R. Tiwari, counsel for respondents No.1 to 3.

Shri Yashwant Singh Thakur, Govt. Advocate for respondents No.4 and 5.

By this petition under Article 226/227 of the Constitution of India the petitioner has challenged the legality, propriety and correctness of the order dated 27-3-1998 passed by the Commissioner, Bilaspur Division, whereby the Commissioner Bilaspur Division allowed the revision filed by the respondents and held that the transfer of land in favour of respondents No.1 to 3 is valid and that the same dispute was already decided in the year 1977-78, therefore, that could not have been agitated again in the year 1995.

Brief facts leading to filing of this writ petition are that the petitioner herein, Manbodh and Chandro were the owners of the agricultural land of village Chanamuda, Patwari Halka No.42, Tehsil Saranggarh, Khasra Nos.14, 15, 16, 25, 26, 27/2, ad measuring 2.125 hectares. Vide sale deed dated 5-4-65 the land was sold to the respondents and thereafter it was entered in the name of the respondents and they were in possession. The Revenue Inspector vide his note dated 31st October 1991 reported the matter to the S.D.O.,

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Revenue, Saranggarh that the matter pertains to the transfer of agricultural land belonging to a Scheduled Tribe. On that the S.D.O. registered the Revenue Case No.14/A-23/94-95 and issued notice to Jairam. However, Jairam could not file any reply, therefore, the S.D.O. passed the order for returning the land to the petitioner herein against which Jairam preferred an appeal in the Court of Additional Collector and the Additional Collector vide order dated 23-3-97 dismissed the appeal of the respondents, against which respondents preferred a revision before the Commissioner, Bilaspur Division. The Commissioner, Bilaspur Division held that the S.D.O., Revenue, Saranggarh had also registered a similar case No.5/A-23/76-77 and vide order dated 22-6-77 the S.D.O. reached to the conclusion that the sale of land by Peeli Bai was bonafide against which an appeal was preferred. Thereafter, the Collector in appeal set aside the order of the S.D.O.. The revision was filed before the Commissioner against the order of the Collector and the Commissioner passed the order that the order passed by the S.D.O. dated 22-6-77 was valid.

Therefore, again Revenue authorities were not entitled to open the case and in the last para of the order learned Commissioner has held that the matter has already been concluded in the year 1977-78 up to the Board of Revenue therefore, the Revenue authorities were

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

not entitled to reopen the case in the year 1995 on the principle of *resjudicata*, when the matter was already concluded up to the Board of Revenue in which it was held that the transfer in question was bonafide and valid and same was not challenged by the petitioner herein, therefore, that order attained finality, as such the S.D.O. Revenue was not entitled to reopen the case again on the same facts in the year 1995.

Therefore, I do not find any illegality and infirmity in the order passed by the Commissioner, Bilaspur Division. The writ petition is, therefore, liable to be dismissed and the same is dismissed.

Sd/-
L.C. Bhadoo
Judge

Barve